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Introduction

In November 1999, a Cuban child named Elian Gonzalez washed up on the shore of Florida after a harrowing journey from Cuba that took the life of his mother. Over the next several months, members of his family and politicians in Cuba and the United States competed for custody of the boy, and hence to determine where he would live and what country's passport he would hold. As an unaccompanied minor, an undocumented immigrant, a potential asylum seeker, and a Cuban in the United States, Gonzalez embodied a number of important exceptions to immigration laws.[1] Four months after the conflict was resolved, and Gonzalez was returned to Cuba in his father's custody, the 2000 U.S. presidential election took place. During what turned out to be a similarly unprecedented controversy, post-election investigations revealed that Florida's voter rolls had systematically excluded ex-felons who were entitled to vote, and who were disproportionately both African-American and registered Democrats.[2] Florida, or even the United States, is not exceptional in this; controversies over how, and to whom, rights are made available regularly erupt in all liberal democratic states. Disputes over the rights of

[1] Sarah Banet-Weiser, "Elian Gonzalez and 'The Purpose of America': Nation, Family, and the Child-Citizen," *American Quarterly* 55(2) (2003): 149–178; and D.L. Dillman, "The Paradox of Discretion and the Case of Elian Gonzalez," *Public Organization Review* 2(2) (2002): 165–185.

[2] Jeff Manza and Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford: Oxford University Press, 2006). See also Jeff Manza and Christopher Uggen, "Punishment and Democracy: The Disenfranchisement of Nonincarcerated Felons in the United States," *Perspectives on Politics* 2(3) (2004): 491–505, and Jeff Manza and Christopher Uggen, "Democratic Contraction? The Political Consequences of Felon Disenfranchisement in the United States," *American Sociological Review* 67(6) (2002): 777–803.

former colonial subjects in the United Kingdom, guestworkers in France and Germany, and indigenous persons in New Zealand illustrate the diverse and global nature of questions about who is a citizen and what rights and statuses citizenship confers.

The statuses held by these groups do not fully conform to standard definitions of citizenship. Nonetheless, all of them have some of the political characteristics associated with citizenship. They hold some rights and receive political recognition consistent with that accorded to citizens. This places them in political categories between citizen and non-citizen. They are semi-citizens. Individually, these semi-citizenships appear to be exceptional, yet many such statuses appear and reappear in different countries and political eras. This book lays out a framework within which semi-citizenships might be identified, and it offers an argument about how and why these semi-citizenships are inevitably present, and continually produced, in liberal democratic states.

The concept of citizenship is ancient, and yet its meaning remains contested to this day.[3] Consider the following inconsistencies woven into the history of political thought on citizenship. Aristotle writes in *The Politics*, "But in most constitutional states the citizens rule and are ruled by turns, for the idea of a constitutional state implies that the natures of the citizens are equal, and do not differ at all."[4] In *The Social Contract*, Rousseau choreographs an elegant transformation of individuals' wills into a citizenry.[5] Kant's *Perpetual Peace* describes "the principle of legal *equality* for everyone (as citizens)."[6] In Federalist Number 10, Madison speaks of "a chosen body of citizens."[7] Each of these political thinkers finds some way to explicitly posit the equality of all citizens. Yet, each of the philosophers quoted above also notes elsewhere that there are many kinds of citizens. Some do so in the very same passages in which they trumpet the virtues of equal citizenship. Aristotle organized citizens into occupational groups that generally corresponded

[3] The nature and import of citizenship as an essentially contested concept is discussed in Chapter 3.
[4] Aristotle, *The Politics* (Cambridge: Cambridge University Press, 1996), Book I, Chapter 12.
[5] Jean-Jacques Rousseau, *The Social Contract and Other Late Political Writings*, ed. Victor Gourevitch (Cambridge: Cambridge University Press, 1997).
[6] Immanuel Kant, "Perpetual Peace: A Philosophical Sketch," in *Kant: Political Writings*, ed. H. Reis (Cambridge: Cambridge University Press, 1970), 99.
[7] Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (New York: Signet, 1961), 82; see also Ralf Dahrendorf, "Citizenship and Beyond," *Social Research* 41(4) (1974): 673–701.

to perceived abilities to self-govern.[8] Rousseau chronicles different kinds of citizens in his model republic of Geneva.[9] Kant delineates rights of "hospitality" for foreign guests. James Madison wrote of "comprehending in the society so many separate descriptions of citizens."[10]

This inconsistency between, on the one hand, the presumption that citizenship in any polity can and must have a single meaning, and on the other, the existence of various kinds and degrees of citizenship, is one that many intuitively recognize, although few systematically account for it in democratic or liberal theories of citizenship.[11] There exists a belief that a central function, perhaps the central function, of citizenship is to make members of a polity equal, and that it does so by fashioning a single, unitary political identity. Judith Shklar and Rogers M. Smith decry American tendencies to exclude, with the expectation that equality ought to be realized and that this happens by offering equal citizenship to all members of a society.[12] The rights and duties that citizenship

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[8] References to classes of citizens, partial citizens, and non-citizens abound in *The Politics*. See, for example, Book VII, Parts 7–10. Aristotle did not belong to the enfranchised class, but instead was a *metic*: a foreigner who by virtue of his non-Athenian blood would never have access to the panoply of rights and expectations associated with Athenian citizenship. Centuries later Isaiah Berlin would describe himself using the same word to capture his scattered affiliations as a Latvian immigrant living in England with complicated attachments to Palestine. See Timothy Garton Ash, "A Genius for Friendship," *New York Review of Books* 51(14) (2004): 22.

[9] Indeed, Giorgio Agamben asserts that "No author in France … has understood the true meaning of the term 'citizen.'" Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 129.

[10] Kant, "Perpetual Peace," and Hamilton et al., *The Federalist Papers*, 324. Dahrendorf ("Citizenship and Beyond") draws the contrast between this and the phrase "a chosen body of citizens" quoted above.

[11] Some have made arguments about specific kinds of differentiations, but these arguments are not linked within a larger framework that recognizes relationships between different forms of *de jure* exclusion. The best-developed bodies of work on differentiated citizenship in political theory typically takes up cultural minorities and gender inequality. In one sense this literature is broader in scope than the subject of this book, as it takes up institutional remedies for social exclusion. In another sense, it is also narrower in scope in that it does not offer a means by which all kinds of institutionally unequal citizenship might be compared. See Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995); and *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996.)

[12] Judith Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge: Harvard University Press, 1991); Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997); see also Thomas Janoski and Brian Gran, "Political Citizenship: Foundations of Rights," in *Handbook of Citizenship Studies*, eds. Engin Isin and Bryan S. Turner (London: Sage, 2002), 13–52.

comprises are intended to create an abstract core legal identity. In turn, this identity makes those who hold it equal, and thus identical, in the eyes of the law and the state. However differently placed it is that individuals may find themselves in private, citizenship provides people with a cloak to don in public in order to meet on level ground, as equals, to engage in collective politics. Conversely, the idea that "[a]s citizens, any two men are indistinguishable," also carries with it costs that concern skeptics.[13] Benjamin Constant described fears of a homogenizing liberal state that imposes a single identity on formerly diverse members, fears James Scott echoes today.[14] In either case, citizenship is marked as a privileged form of political membership. It defines a boundary of inclusion within which liberal democracies claim to institutionalize equality through the conferral of a public status upon all members. This has come to imply that citizenship ought to have one and only one meaning in a given polity. Liberal democratic states are expected to establish a single model of citizenship that is accessible through a routinized, and morally and ethically justified, set of rules and procedures.

However, in practice, citizenship has never been a unitary concept, nor can it even be neatly characterized as binary.[15] All manner of exceptions to rules of inclusion abound. Although these differentiated forms of

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[13] Dahrendorf, "Citizenship and Beyond," 674.

[14] Benjamin Constant, "The Spirit of Conquest," in *Political Writings*, ed. Biancamaria Fontana (Cambridge and New York: Cambridge University Press, 1988).

[15] Feminist scholars have been at the forefront of innovative scholarship on citizenship. See Chantal Mouffe, "Feminism, Citizenship, and Radical Democratic Politics," in *Feminists Theorize the Political*, eds. Judith Butler and Joan W. Scott (New York: Routledge, 1992), 369–384; and Ruth Lister, *Citizenship: Feminist Perspectives*, 2nd edition (New York: New York University Press, 2003). Also see Linda Bosniak, *The Citizen and the Alien* (Princeton: Princeton University Press, 2006); Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990); Tomas Hammar, *Democracy and the Nation State* (London: Gower Publishing, 1990); Margaret R. Somers, *Genealogies of Citizenship* (New York and Cambridge: Cambridge University Press, 2008); Aihwa Ong, *Flexible Citizenship: The Cultural Logics of Transnationality* (Durham, NC: Duke, 1999); Engin F. Isin, *Being Political: Genealogies of Citizenship* (Minneapolis, MN: University of Minnesota Press, 2002); Leonard C. Feldman, *Citizens Without Shelter* (Ithaca and London: Cornell University Press, 2004); Peter Schuck, *Citizens, Strangers, and In-Betweens* (New York: Oxford University Press, 2000). Binary thought itself may be conceptually suspect. Ian Shapiro's recent work on the methodology of the social sciences eschews theoretical work aimed at producing "gross concepts" that lend themselves to reductive, dichotomous thought that: (a) "obscures the phenomena they purport to analyze" by (b) reducing "what are actually relational claims to claims about one or another of the terms in a relational argument." (Ian Shapiro, *The Flight From Reality in the Human Sciences* (Princeton: Princeton University Press, 2005), 14. See especially Chapter 5.

citizenship[16] have not gone unnoticed, more attention has been devoted
to making claims about the justice or injustice of such statuses than has
been directed to cataloging forms of differentiation and exploring the
full range of their sources.[17] Thus the identification and comparison of
different forms of citizenship have been largely eclipsed by normative
claims about the nature of specific injustices related to semi-citizenship.[18]
In fact, so great is the interest in how to achieve equal citizenship, or in
arguing for particular visions of equal citizenship, that many arguments
about citizenship have neglected to fully interrogate whether it can be
achieved, and, if not, how we can accommodate this fact within our
larger philosophical frameworks. As yet, no analytic response has been
forthcoming to those calls for advancing thought on "differentiated citi-
zenship" that invoke the need for a "grammar of political conduct" that
includes a "political syntax" that "values difference, as built into the
very fabric of the political project."[19] Historical and sociological calls for
"a full theory of citizenship rights would account for these variations as
well as broad trends," also remain without an analytic reply.[20]

In order to develop such a language of citizenship, which can be
used to discuss and analyze the statuses that exist between full and
non-citizenship, this study moves discussions of political membership in
two new directions. First, it offers a way to classify semi-citizenships in
a manner that facilitates analytic comparison. I identify multiple forms
of political membership that are associated with some, but not all, of the
democratic rights, responsibilities, activities, and statuses available to
citizens of a state, and I discuss how and why liberal democratic states
routinely instantiate such categories of semi-citizenship. Second, this
examination details how and why semi-citizenships come to exist and,
more importantly, why they are inevitable.

Chapter 2 surveys definitions of citizenship and defends a definition of
citizenship that emphasizes the importance of rights as the means through
which opportunities for political action are created and protected.

[16] The phrase "differentiated citizenship" was coined by Young in *Justice and the Politics of Difference*.
[17] Notable exceptions to this exist. As discussed further in Chapter 2, Bosniak's discus-
sion of the disaggregation of "status citizenship" and normative models of citizenship
takes up this subject in the context of the relationship of external and internal bound-
aries. Bosniak, *The Citizen and the Alien*.
[18] The literature on differentiated citizenship is surveyed in Chapter 3.
[19] Ruth Lister, "Citizenship as Status and Practice," *Hypatia* 12(4) (1997): 14.
[20] Charles Tilly, "Where Do Rights Come From?" in *Democracy, Revolution, and History*, ed. Theda Skocpol (Ithaca and London: Cornell University Press, 1998), 71.

Citizens have access to an intertwining set or "braid" of fundamental civil, political, and social rights, along with rights of nationality. Semi-citizens are accorded only subsets of those rights. A semi-citizen may have some, but not all, political rights. A semi-citizen may have no political rights at all. Numerous configurations are conceivable. Because rights create political relationships it is crucial to states that they be able to disaggregate bundles of rights.[21] The unbundling of the braid of citizenship rights has the effect of shaping and managing populations whose diverse elements could not all be governed by a single set of rules. In the absence of this capacity, states would have to do things like immediately and fully enfranchise all immigrants, legally disown responsibility for, or claims on, children, and disband military courts. Rights not only come unbraided from each other, but each individual strand can fray. Types of citizenship rights can become disaggregated from one another and from their own constituent parts. This suggests that citizenship rights are independent of, rather than contingent upon, each other; that is, each right exists because it is valuable in itself, not because it makes the exercise of other rights possible. Such independence lends strength to citizenship because it allows some types of rights to be conferred on individuals even if they do not qualify for other rights. Under these conditions it is much less likely that an individual who does not meet the qualifications for full citizenship will be left completely rightless. However, this independence also makes semi-citizenship somewhat inevitable, as independently justified rights can be granted in differentiated bundles.

Chapter 3 offers a framework within which we can analyze the plethora of potential semi-citizenships opened up by the nearly limitless set of possible partial rights bundles that states can accord individuals and groups. In order to classify these possibilities in a way that facilitates discussion and comparison, this framework classifies membership rights based on how we might expect rights to be bundled. Rights are either autonomous or relative. Autonomous rights are rights that human beings need in virtually identical form in any political context. Security of person, rights of residence, freedom of thought and expression, and rights associated with very basic welfare are autonomous. Relative rights obtain only in specific political contexts. The right to vote or property rights are examples of relative rights. They require specific political systems to make them

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[21] Language referring to collections of rights that compose citizenship as "bundles" recurs in work on citizenship. For a survey of some of this literature see Judith Lynn Failer, *Who Qualifies for Rights? Homelessness, Mental Illness, Civil Commitment* (Ithaca, NY: Cornell University Press, 2002), especially Chapter 2.

legible.[22] The rights of semi-citizens vary along two dimensions: whether the relevant rights are relative or autonomous, and the respective strength of those rights . This yields a 2×2 table that includes four classes of semi-citizenship into which any individual or group who does not enjoy full rights of citizenship may be categorized. The four cells of this table would be: strong autonomous rights and weak relative rights, strong autonomous rights and strong relative rights, weak autonomous rights and strong relative rights, and finally weak autonomous rights and weak relative rights.

The classes of semi-citizenship include recognizable identity groups but are not themselves social identities.[23] Rather, they are structural political classes whose sources and traits cannot be attributed solely to ascriptive bias, economic class conflict, or failings on the part of the individuals who hold them. Chapter 4 argues that the different doctrines that found citizenship in liberal democratic states also lead inexorably to the creation of semi-citizenships. I ground this argument in the tensions within citizenship ideals that force compromises between the different doctrines that ground rights in liberal democratic states. Liberal and democratic norms compete to define citizenship in ways that have been explored at length in debates between liberals, communitarians, and civic republicans.[24] Few scholars have looked comprehensively at how citizenship is circumscribed by the triad composed of liberal norms, democratic norms, and the strictures imposed by governmental imperatives that motivate administrative rationality.[25] Treating liberal norms, democratic norms, and governmental imperatives as three equal partners in the formation of citizenship sheds light on aspects of semi-citizenship that cannot be explained by normative theory alone.

[22] The problems of a population that is "illegible," or inaccessible and incomprehensible to the state that governs it, is referred to by James C. Scott. Scott, drawing upon the work of Michel Foucault, details the terms on which practices of small, self-contained communities are both revealed and changed in ways that make them intelligible to outsiders, particularly the state. James C. Scott, *Seeing Like a State* (New Haven: Yale University Press, 1997).

[23] As Nancy Fraser's analysis of problems of recognition elucidates, social identity cannot serve as the only means through which we observe and discuss inequality, exclusion, and disenfranchisement. Nancy Fraser, "Recognition Without Ethics?," *Theory, Culture & Society* 18 (2–3) (2001): 21–42.

[24] See Derek Heater, *What is Citizenship?* (Cambridge: Polity, 1999); Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* 104(2) (1994): 352–381; Stephen Macedo, *Liberal Virtues* (Oxford: Oxford University Press, 1991); and Adrian Oldfield, *Citizenship and Community: Civic Republicanism and the Modern World* (New York and London: Routledge, 1990). Rogers Smith advances this debate in the American context by documenting how ascriptive Americanism conflicts with other doctrines of American citizenship (Smith, *Civic Ideals*).

[25] One important exception is Feldman, *Citizens Without Shelter*. See especially Chapter 3.

Rights are defended in different ways by each of the three competing doctrines of citizenship. Liberalism, ethical norms associated with democratic theory, and the administrative rationality that marries these abstractions to the imperatives of practical politics have common lineages and overlap at points. Yet they also conflict with one another in ways that entail compromises. They all share some premises and yet they also come into conflict over how to realize membership. Liberalism confers rights on autonomous individuals, while democracies create boundaries supported by more ethically substantive requirements and qualities expected of members.[26] Liberal and democratic norms are realized by institutions that must also contend with the demands of sovereignty and of populations that can be irrational, illegible, or otherwise difficult to govern. The governmental imperatives created by diverse and constantly shifting populations require additional compromises on the part of liberal and democratic traditions. Recognizing administrative rationality as a peer of liberalism and normative theories of citizenship is crucial because it draws the state into the picture, and yet also firmly establishes that semi-citizenship will persist even if the nation-state does not. Administrative rationality may be the province of the state in contemporary politics, but it applies to any political institution charged with governing a population.

Regardless of context, conflicts rooted in different understandings of who can and ought to be included in politics, to what degree, on what grounds, and under which conditions, will inevitably produce semi-citizenships. These can be observed by examining the political relationships formed or forestalled when rights are conferred on some people and not on others. Semi-citizenships result when these frictions intensify and the bundle of fundamental citizenship rights comes apart. Individuals who do not conform to the standards dictated by different doctrines of citizenship receive partial bundles of rights.

Semi-citizenships serve several key purposes in liberal democratic states. First, they reflect compromises between these theories that allow

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[26] Throughout the book, normative democratic theory and democratic politics are referred to as "ethical" and historically rooted to differentiate them from purely procedural applications of liberal principles. Democracy is "ethical" because it is produced by a *demos* that is the distinct, situated product of its own history. For a recent discussion of this distinction, see Jürgen Habermas, "Three Normative Models of Democracy: Liberal, Republican, or Procedural" in Richard Kearney and Mark Dooley, *Questioning Ethics: Contemporary Debates in Philosophy* (London and New York: Routledge, 1999),135–144. Democratic norms are contrasted with liberal norms that ground rights in human traits that transcend any particular context.

them to co-exist even when they contradict one another. Second, they order populations in ways that make them governable. Citizenship is far from the only form of categorization with which people organize themselves but is our oldest and most ubiquitous political category. While categorization is a contested notion within the social sciences because of its immense cognitive and affective weight for individuals and groups, it is vital for making people legible to the institutions that govern them. Finally, semi-citizenships create flexibility. Taken on their own, each understanding of citizenship implies more rigid demarcations between citizen and non-citizen than could ever be realized. As circumstances of all kinds evolve, the ongoing engagement of multiple doctrines of political membership permits change via the renegotiation of compromises and the shifting of persons from one order of semi-citizenship to another. Each of these three roles performed by semi-citizenship will be subject to a variety of normative defenses and critiques. The point is not that compromise, ordering, or flexibility is desirable or undesirable, but rather that each is necessary and inevitable. Only in light of this can useful judgments about particular compromises be made.

To illustrate semi-citizenships and the processes that form them, this book also examines specific cases in which rights become disaggregated from each other, particularly in liberal democracies. Although groups with differentiated forms of membership are not unique to democracies, liberal democratic states claim, and are credited with asserting, the most demanding standards of inclusion and of equality with self-rule. If three centuries of institutional and normative development have not wrought a single equal form of citizenship in any liberal democratic state, such a goal may not be possible. By way of illustration, Chapter 5 analyzes an instance of an autonomous right, nationality, which is generally treated as a single right to which other rights of citizenship are closely bonded.[27] Upon inspection, nationality turns out to have component parts that are distributed in uneven ways among the population of the foreign-born. For instance, nationality typically entails the right to live within the borders of, and the right to travel freely within, a particular nation-state. In the case of the foreign-born, these rights are disaggregated by placing conditions on the circumstances and timing of residence and travel. Temporary workers, refugees, and economic immigrants, among others, all have different elements of rights associated with nationality. In turn,

[27] I argue that nationality is an autonomous right because it confers rights to residence and free movement that are essential not just within the state system as it is currently constituted, but in any political system.

different civil, social, and political rights attach to these various forms of
partial nationality. This scatters foreign-born persons all over the above-
mentioned table of semi-citizens. These statuses are permanent; while
individuals may graduate to full citizenship, the presence of various types
of non-nationals is enduring. This is true because people remain mobile
and changeable in various ways and because the logics of citizenship con-
flict with each other in predictable ways. The semi-citizenships that are
created thus bear out the assertion made in Chapters 2 and 3 that, while
semi-citizenships may represent the divisive nature of citizenship, they
also represent a form of security. Rightlessness occurs, but not as readily
as it might have if a single, reductive logic of citizenship were to prevail.

Chapter 6 examines the disaggregation of relative rights through two
cases: children and gay and lesbian citizenship. Like non-nationals, chil-
dren are an enduring group within any population of any liberal demo-
cratic state. Unlike non-nationals, children's rights are fairly cleanly split
between the relative and the autonomous. Children have very strong
autonomous rights and very weak relative rights. In contrast, gay and
lesbian individuals have both very strong autonomous and very strong
relative rights. But they are almost universally prohibited from conclud-
ing marriage contracts that entitle them to the same protections that het-
erosexual couples enjoy. Gay and lesbian semi-citizenship represents a
test of the outer bounds of semi-citizenship and also indicates a model for
thinking about how states can amend and edit citizenship rights in order
to change the membership status of semi-citizens. At the same time it also
reveals how compromises between the competing logics that ground citi-
zenship can be very difficult to revise. In particular, offering additional
forms of rights, as has been suggested by theorists of multiculturalism
and public deliberation, among others, does not always suffice to form
complete citizenship where semi-citizenship exists. Children cannot be
offered the franchise and civil unions do not replace, or even displace,
marriage.

Although the classifications of semi-citizenship presented in this book
invite normative speculation, they are discussed here primarily as ana-
lytic tools. As such, they are justified not by the normative judgments to
which they point, but rather the degree to which they accurately charac-
terize a set of related political phenomena. Although they identify ways in
which citizenship may disappoint our normative aspirations for member-
ship in liberal democracies, they do not render final judgment regarding
what is fair or unfair, or even what is justifiable within any given norma-
tive or political context. Semi-citizenships do reveal a great deal about